

Senate Bill No. 976

CHAPTER 671

An act to amend Sections 75071, 75080, and 75590 of, and to add Section 75094 to, the Government Code, relating to retired judges.

[Approved by Governor October 6, 1999. Filed
with Secretary of State October 10, 1999.]

LEGISLATIVE COUNSEL'S DIGEST

SB 976, Perata. Retired judges: benefits.

Under the Judges' Retirement Law, a judge may elect various optional settlements, one of which consists of the right to have a retirement allowance paid him or her until his or her death and if he or she dies before he or she receives the amount of his or her accumulated contributions at retirement, to have the balance at death paid to his or her surviving spouse or estate.

This bill would add his or her surviving adult children as elective recipients of the balance paid at death under this optional settlement.

Under the Judges' Retirement Law, if a judge, following retirement for disability, engages in the practice of law or other gainful occupation, other than a public office, his or her retirement allowance is reduced by a specified amount until he or she reaches the age of 70. However, if that judge holds a public office while less than 70 years of age, his or her retirement allowance ceases permanently.

Under this bill, the reduction in retirement allowance would apply until the judge reaches service retirement age and the retirement allowance of a judge who holds a public office following retirement for disability would not cease but would, instead, be subject to that reduction. The bill would also provide that the retirement allowance of a judge would cease if he or she, following retirement for disability, engages in the practice of law or other gainful occupation that requires duties substantially similar to those he or she was found unable to perform due to his or her disability.

Under the Judges' Retirement Law and the Judges' Retirement System II Law, specified benefits are provided to the surviving spouse of a judge who dies in office at a time when the judge was eligible for service retirement.

This bill would provide alternative benefits for those surviving spouses that would be payable if specified conditions exist at the time of the judge's death and the judge, at any time while in office, made an irrevocable election to be subject to the bill's provisions.

Under the Judges' Retirement System II Law, certain benefits are provided to the surviving spouse of a retired judge who retired for service and elected to receive a specified allowance.

This bill would also provide those benefits to the surviving spouse of a retired judge who retired for disability and was receiving a monthly allowance, as specified.

The people of the State of California do enact as follows:

SECTION 1. Section 75071 of the Government Code is amended to read:

75071. (a) Optional settlement one consists of the right to have a retirement allowance paid him or her until his or her death and if he or she dies before he or she receives the amount of his or her accumulated contributions at retirement, to have the balance at death paid to his or her surviving spouse, his or her surviving adult children in equal shares, or his or her estate.

(b) Optional settlement two consists of the right to have a retirement allowance paid him or her until his or her death and thereafter to his or her surviving spouse for life.

(c) Optional settlement three consists of the right to have a retirement allowance paid him or her until his or her death, and thereafter to have one-half of his or her retirement allowance paid to his or her surviving spouse for life.

(d) Optional settlement four consists of such other benefits as are the actuarial equivalent of his or her retirement allowance, that he or she may select subject to the approval of the Judges' Retirement System.

SEC. 2. Section 75080 of the Government Code is amended to read:

75080. (a) If, after retirement for disability, a retired judge engages in the practice of law or other gainful occupation, the retirement allowance otherwise payable to him or her shall continue and shall not be reduced, except as provided in this section.

(b) If a retired judge becomes entitled to any salary for assignment to a court by the Chairperson of the Judicial Council after retirement under Section 75060, the retirement allowance otherwise payable to him or her shall, during the time he or she is entitled to receive that salary or other compensation, be reduced by the amount of that salary or compensation.

(c) Except as provided in subdivision (d), if a judge who is retired for disability engages in the practice of law or any other gainful occupation in which the compensation earned in any month when combined with the judge's allowance exceeds 75 percent of the salary payable to the judge holding the judicial office to which the retired judge was last elected or appointed, the retirement allowance otherwise payable to the judge shall be reduced by the amount of any



earnings in excess of that amount. The judge shall report the compensation earned during each month to the board by the eighth day of the following month.

(d) If a judge who is retired for disability engages in the practice of law or other gainful occupation that requires the discharge of duties substantially similar to those duties that he or she was found, pursuant to Section 75060, to be unable to discharge efficiently because of his or her mental or physical disability, the retirement allowance otherwise payable to him or her shall cease permanently.

(e) Persons affected by this section shall report all compensation earned in a form and manner required by the Board of Administration of the Public Employees' Retirement System under penalty of perjury. The board shall have the authority to require these persons to grant the board permission to request wage information for the purposes of verifying the reported compensation earned. The Employment Development Department shall report compensation in a form and manner required by the board in accordance with Section 1798.24 of the Civil Code. The board shall reimburse the Employment Development Department for the costs that the department incurs in searching for and providing that information.

(f) When a person described in subdivision (c) reaches the age at which he or she would have been eligible for retirement, pursuant to Section 75025, had he or she not incurred the disability, his or her retirement allowance shall be made equal to the amount it would be if not reduced under that subdivision, and shall not again be modified for any cause.

(g) A judge who is retired for disability or becomes entitled to any salary for assignment to a court by the Chairperson of the Judicial Council after retirement under Section 75060 shall not be eligible to receive service credit in another public retirement system or under this chapter or to be reinstated to this system.

(h) The Legislature reserves the right to increase or reduce the benefits prescribed by this section as it may find appropriate.

SEC. 3. Section 75094 is added to the Government Code, to read:

75094. (a) Notwithstanding any other provision of this article to the contrary, the surviving spouse of a judge who (1) died in office, (2) had attained the minimum age for service retirement applicable to the judge preceding his or her death, with a minimum of 20 years of service, and (3) was eligible to receive an allowance pursuant to Section 75025 or 75033.5, shall receive an allowance that is equal to the amount that the judge would have received if the judge had been retired from service on the date of death and had elected optional settlement 2 specified in subdivision (b) of Section 75071.

(b) A surviving spouse receiving an allowance pursuant to this section shall have no other claim to benefits with respect to the

Judges' Retirement Fund or with respect to any other provision of the Judges' Retirement Law.

(c) The benefits provided by this section are only payable to the surviving spouse of a judge who elects to come within this section. Notwithstanding Section 75090, that election may be made at any time while the judge is in office and, once made, the election is irrevocable.

SEC. 4. Section 75590 of the Government Code is amended to read:

75590. (a) A surviving spouse of a judge who was eligible to retire pursuant to subdivision (a) of Section 75522 shall, within 90 days after the judge's death, elect to receive either of the following:

(1) A monthly retirement allowance equal to one-half of the judge's benefit factor computed as stated in subdivision (d) of Section 75522 as of the date of death, multiplied by the judge's final compensation multiplied by the number of years of service credit. This allowance shall be adjusted for changes in the cost of living as provided in Section 75523.

(2) The judge's monetary credits determined pursuant to Section 75520, including the credits added under subdivision (b) of that section computed to the last day of the month preceding the date of distribution.

(b) A surviving spouse of a retired judge who elected to receive a monthly allowance under subdivision (d) of Section 75522 or who was retired for disability and receiving an allowance under Section 75560.4 shall receive a monthly allowance equal to 50 percent of the deceased judge's last monthly retirement allowance. This allowance shall be adjusted for changes in the cost of living as provided in Section 75523.

(c) (1) Notwithstanding any other provision of this article to the contrary, the surviving spouse of a judge who (A) died in office, (B) had attained the minimum age for service retirement applicable to the judge preceding his or her death, with a minimum of 20 years of service, and (C) was eligible to receive an allowance pursuant to Section 75522, shall receive an allowance that is equal to the amount that the judge would have received if the judge had been retired from service on the date of death and had elected optional settlement 2 specified in subdivision (b) of Section 75071.

(2) A surviving spouse receiving an allowance pursuant to this subdivision shall have no other claim to benefits with respect to the Judges' Retirement Fund or with respect to any other provision of the Judges' Retirement System II Law.

(3) The benefits provided by this subdivision are only payable to the surviving spouse of a judge who elects to come within this



subdivision. That election may be made at any time while the judge is in office and, once made, the election is irrevocable.

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